

**City Council
Order****City of Auburn****Item 12052011-04****Sale and Use of Consumer Fireworks****Chapter 20, Article III Section 20.58.1 Sale and Use of Consumer Fire Works Prohibited**

A. Definitions- The following definitions shall apply in this section:

1. Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:
 - a. Missile-type rockets, as defined by the State Fire Marshal by rule; and
 - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
 - c. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
 - d. The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion; toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture; sparklers that do not contain magnesium chlorates or perchlorates or signal; antique or replica cannons if no projectile is fired.
 - e. Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

B. Prohibition. No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the City of Auburn.*

C. Exception. This section does not apply to a person issued a fireworks display permit by the City of Auburn and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

D. Penalties:

1. Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Auburn shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. For second and subsequent offenses, a fine of not less than three hundred dollars (\$300.00) and not more than six hundred dollars (\$600.00) per violation plus costs shall be imposed.
2. Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell in the City of Auburn shall be punished by a fine of not less than five hundred dollars (\$500.00) plus costs. For second and subsequent offenses, a fine of not less than one thousand dollars (\$1,000.00) per violation plus costs shall be imposed.
3. *Seizure and disposal of fireworks.* The City may seize consumer fireworks that the City has probable cause to believe are used, possessed or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.

*State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, see 8 M.R.S.A. §223. By prohibiting the sale and use of consumer fireworks, the City is effectively prohibiting the use of all fireworks in the City of Auburn.

Given First Reading: 11/21/11 5-1 (Hayes
opposed; Farrell absent)
Second Reading & Passage: 12/5/11 6-0
(Farrell absent)